

**UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

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UNITED STATES OF AMERICA,	)	
Complainant,	)	8 U.S.C. § 1324c Proceeding
	)	
v.	)	
	)	OCAHO Case No. 96C00027
PEDRO DOMINGUEZ,	)	
Respondent.	)	Judge Robert L. Barton, Jr.
_____	)	

**ORDER GRANTING RESPONDENT’S REQUEST TO  
POSTPONE DATES FOR PREHEARING CONFERENCE  
AND SUBMISSION OF PREHEARING STATEMENT**

*(November 12, 1997)*

On November 3, 1997, I issued an Amended Order Governing Prehearing Procedures in which I set forth a revised procedural schedule. As part of the schedule I ordered the parties to submit a Joint Prehearing Statement on December 8, 1997, and also scheduled a prehearing conference for that same date. In a letter dated November 7, 1997, Respondent requests a postponement of the deadlines scheduled for December 8, 1997, asserting that even prior to the November 3 Order Respondent’s counsel Michael Chovanec was scheduled to try a lawsuit in the Bankruptcy Court for the Western District of Texas beginning on December 8, 1997, and there is no possibility that the bankruptcy trial will be continued or reset. Mr. Chovanec states that he does not believe that the trial will be concluded before December 17, 1997. Therefore, he asks that the December 8 date be vacated, and that the prehearing conference be scheduled between December 24 and December 31, 1997.<sup>1</sup> Further, he states that he has conferred with Complainant’s counsel and she indicates that she is in agreement with the extension he is requesting.

As to the form of the request, I stated over a year ago in the original Order Governing Prehearing Procedures dated August 12, 1996, that “[a]ll requests for relief, including requests for an extension of time, shall be submitted in the form of a written motion, not a letter.” Despite this

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<sup>1</sup> According to Mr. Chovanec’s letter, Complainant’s counsel Jane Thomson is scheduled to be on leave for three weeks beginning on December 17, 1997 and ending on January 6, 1997, but she could be available for a conference from December 24 to December 31, 1997.

admonition, Respondent has not filed a motion for an extension, but rather is seeking relief in the form of a letter. In the future, if any requests for relief are filed in the form of a letter, rather than a motion, I will not consider the request.

However, as to the merits of the request, Respondent has set forth a reasonable request for a postponement of the December 8, 1997, prehearing conference. Obviously, counsel cannot be in two separate locations at the same time and the trial in U.S. Bankruptcy Court was scheduled prior to the prehearing conference. Therefore, the part of the November 3 Order scheduling a prehearing conference for December 8 and requiring the submission of the Joint Prehearing Statement is hereby vacated. However, the submissions required by the other parts of the November 3 Order remain in effect. The prehearing conference is reset for Monday, December 23, 1997, at 1 p.m. Central Time.<sup>2</sup>

Not later than January 5, 1998, the parties shall jointly file a proposed Final Prehearing Order, signed by counsel for both parties, which shall conform to the requirements of the prehearing statement discussed in 28 C.F.R. § 68.12, including a statement of issues, witnesses to be called at trial, and exhibits. Finally, I expect that the evidentiary hearing in this case will begin on January 12, 1998, in San Antonio, Texas. If either party is not available for trial during that week, the party shall file a written pleading not later than December 1, 1997 stating why they are unavailable and shall propose alternative weeks for the hearing.

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**ROBERT L. BARTON, JR.**  
**ADMINISTRATIVE LAW JUDGE**

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<sup>2</sup> Although one of Complainant's counsel is scheduled for leave, unlike Respondent, Complainant is not represented by a solo practitioner. I note that more than one attorney has represented Complainant in this case. In any event, I am unwilling to postpone all events in this case for a three week period between December 17, 1997 and January 6, 1998. As long as the attorneys are familiar with the issues in the case, and are prepared for the conference, Complainant may choose whoever it wishes to represent it during the final prehearing conference.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of November, 1997, I have served the foregoing Order Granting Respondent's Request to Postpone Dates for Prehearing Conference and Submission of Prehearing Statement on the following persons, at the addresses shown, by first class mail, unless otherwise indicated:

Jane H. Thomson  
Assistant District Counsel  
Immigration and Naturalization Service  
P.O. Box 34178  
San Antonio, TX 78265-4178  
(Counsel for Respondent)  
(by fax and first class mail)

Michael A. Chovanec, P.C.  
Attorney at Law  
Greartview Office Center  
8207 Callaghan Road, Suite 425  
San Antonio, TX 78230  
(Counsel for Respondent)  
(by fax and first class mail)

Dea Carpenter  
Associate General Counsel  
Immigration and Naturalization Service  
425 "I" Street, N.W., Room 6100  
Washington, D.C. 20536

Office of the Chief Administrative Hearing Officer  
Skyline Tower Building  
5107 Leesburg Pike, Suite 2519  
Falls Church, Virginia 22041  
(Hand delivered)

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Linda S. Hudecz  
Legal Technician to Robert L. Barton, Jr.  
Administrative Law Judge  
Office of the Chief Administrative Hearing Officer  
5107 Leesburg Pike, Suite 1905  
Falls Church, VA 22041  
Telephone No.: (703) 305-1739  
FAX No.: (703) 305-1515